

REMARKS

Applicants have amended claim 110 to delete the period after "wherein said".

Claim 109 has been canceled. Thus all bases for rejection of and objection to this claim have become moot.

Claim 110 has been amended to state that the pyruvate carboxylase according to the present invention where a microorganism transformed with a polynucleotide coding for polypeptide having SEQ ID NO:2 is expressed with an increased copy number compared to an untransformed microorganism. See pages 5,6 and 7 of the substitute specification for antecedent basis.

Claim 116 has been similarly amended to refer to expression of the pyruvate carboxylase with an increased copy number compared to that of an untransformed microorganism..

Claims 110 and 116 and thus the claims dependent upon claims 110 and 116 have been amended to include only microorganisms that have been transformed with an isolated polynucleotide encoding a pyruvate carboxylase polypeptide comprising the amino acid sequence of SEQ ID NO: 2. Thus these claims should no longer be rejected under 35 USC 112, first paragraph, as including subject matter beyond the scope of the enabling disclosure provided by the specification.

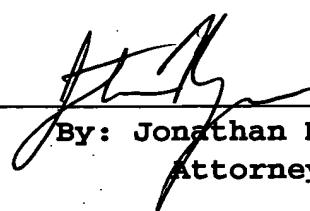
Applicants note that there was a telephone call between Examiner Steadman and the Undersigned attorneys on 14 June 2006 in which there was a brief discussion of the Advisory Action mailed 6 June 2006 in which the Examiner refused to enter the Applicants' Amendment After Final Rejection Under 37 CFR 1.116 submitted 12 May 2006. Examiner Steadman indicated that there was an informality in claims 110 and 116 presented at that time and that these claims should require that a microorganism transformed with a polynucleotide expressing the polypeptide of SEQ ID NO:2 express that polypeptide with an increased copy number compared with a non-transformed microorganism. Claims 110 and 116 as now presented have been amended accordingly. Thus all claims now presented are believed to be supported by the disclosure and to be clear and definite and in full compliance with the requirements of 35 USC 112, first and second paragraphs. Examiner Steadman also stated that Applicants' submission of the Peters-Wendisch reference and the Information Disclosure Statement with the Amendment After Final Rejection was not timely since it raised new issues requiring further search and/or consideration by the Examiner. This is the principal reason why the Amendment Under 37 CFR 1.116 was not entered. The Examiner suggested that Applicants file a Request for Continued Examination (RCE) to obtain consideration of the PETERS-WENDISCH REFERENCE and Applicants have accordingly done so.

Applicants became aware of the PETERS-WENDISCH reference that was cited during an opposition proceeding in Europe against the Applicants' parallel European Patent Application. The opposition has been brought by the successors in interest to the European Patent Application corresponding to the three SINSKEY et al US Patents of record in the present application. The reference is in German and so Applicants have obtained an English translation thereof and so are now making of record both the German original and the English translation. The reference is entitled ANAPLEUROTIC REACTIONS IN CORYNEBACTERIUM GLUTAMICUM; EXPERIMENTS FOR THE IMPORTANCE OF THE PEP CARBOXYLASE AND THE PYRUVATE CARBOXYLASE IN THE CENTRAL METABOLISM AND IN THE AMINO ACID PRODUCTION. The author of the article is Petra Peters-Wendisch, one of the present Applicants, and the article was published in August of 1996.

Applicants are enclosing herewith an Information Disclosure Statement to explain the relevance of the Petra Peters-Wendisch reference.

Favorable action in this case is earnestly solicited.

Respectfully submitted,
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Enclosures: Information Disclosure Statement
Article of Petra Peters-Wendisch (German)
English translation
Petition for extension
PTO 2038

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